UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1852
24 July 2000

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Sixty-ninth session

SUMMARY RECORD OF THE 1852nd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 18 July 2000, at 3 p.m.

Chairperson: Ms. MEDINA QUIROGA

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Initial report of Kuwait (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.00-43378 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of Kuwait (continued) (CCPR/C/120/Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Kuwait resumed their places at the Committee table.

2. The CHAIRPERSON invited members of the Committee to put further oral questions to the Kuwaiti delegation.

3. Mr. LALLAH thanked the delegation for a highly detailed report, but regretted that although it contained copious information about the Kuwaiti legal system, it said very little about the implementation of Covenant rights under that system. With regard to the reservations Kuwait had expressed concerning certain parts of the Covenant, it was difficult to see how the Kuwaiti Government could be satisfied with a situation in which only 20 per cent of the population, namely men - and not women, foreigners or Bedoons, were covered by the Covenant, especially as the Kuwaiti Constitution advocated the application of human rights "in the territories within the jurisdiction of Kuwait". Fortunately, Kuwait's accession to the Covenant meant that it came under the purview of article 26, which, since it governed the exercise of power in relation to human rights in the judicial, legal, executive and administrative spheres, had led the Human Rights Committee to develop extensive specialized jurisprudence. In that regard, he saluted the Amir's courage and wisdom in proposing new legislation on women to Parliament, and also those members of Parliament who were attempting to ensure that Kuwaiti women enjoyed the rights under the Covenant that it was their Government's duty to provide. He encouraged them to persist in their efforts to persuade the legislature that Kuwait, despite the reservations it had expressed, had a duty under the terms of the Covenant to ensure that all of its population within its territory enjoyed the Covenant rights on an equal basis.

4. Much needed to be done to improve the situation of women in Kuwait, as Ms. Evatt had demonstrated at the previous meeting. He wondered to what extent Kuwait was attempting to emulate other Muslim countries which were exploring legal interpretations that allowed the essence of shariah law to be observed while achieving greater equality for citizens in accordance with present-day needs and situations. In that connection, he welcomed Kuwait's adoption of Law No. 51 of 1994 regulating divorce and family law.

5. With regard to Bedoons, he wondered whether it was right to insist that they obtain documentation in order to enjoy rights within the territory they inhabited, given the fact that they were nomads who had lived in Kuwait since well before its independence without need for any kind of documentation. On the whole issue of religious, cultural and linguistic minorities he emphasized, in the light of the questions already put by members, that the Committee's main concern was to assist Kuwait by discovering what minorities existed, what rights they currently enjoyed, and how their rights under article 27 of the Covenant might best be preserved.

6. With regard to the question of according what the delegation had described as "privileges" to non-Kuwaitis living for extended periods within Kuwaiti territory, he said there should be no doubt that what was at issue were rights under article 26 of the Covenant. Such people made a considerable contribution to the nation's life and economy, and could not be excluded from the rights to which article 26 referred, except in obvious cases such as the right to vote, which was the prerogative of Kuwaiti citizens.

7. He welcomed Kuwait's accession to several ILO Conventions, but would like more information about the rights of association of oil-workers and domestic workers.

8. With respect to pardons and commutation of death sentences passed following the war with Iraq, he wondered how many of those still in prison for such offences were non-Kuwaitis, and whether the law treated them in the same way as Kuwaitis. He suggested that 25 February, the anniversary of that sad event, might be an appropriate time to announce a pardon in appropriate cases.

9. Lastly, he asked the delegation to provide details of the legislation governing the establishment and functioning of NGOs in Kuwait, particularly in the sphere of human rights.

10. Mr. AMOR thanked the delegation for a high-quality report that reflected much of the reform process which had been initiated in the wake of Iraq's illegal occupation of Kuwait and the subsequent conflict. The report provided an excellent basis for discussion of the human rights situation in Kuwait since its accession to the Covenant.

11. His first questions concerned the fundamental issue of the legal status of the Covenant in Kuwait. He would like to know more about the interpretative statements that had been issued to address the many situations in which a judge, in making his decision, was confronted both with the Covenant and with a parallel text that made either direct or indirect reference to the shariah. In respect of one important example, namely equality before the law under article 26 of the Covenant, his experience suggested that the shariah often took precedence. He asked the delegation for more information about procedures governing judges' decisions in such matters.

12. Likewise, what human rights principles in practice required the application of both the shariah and specific articles of the Covenant? The question was an important one in the sense that some States used the shariah as a means of justifying certain practices which were unacceptable under international law, and even under the shariah itself. One such example was marriage, which was a civil contract for which many religious interpretations existed under the shariah. He asked for more information about the situation in Kuwait.

13. There was no doubt that the Islamic shariah possessed the flexibility to contribute to social development and renewal in the human rights context. Rather than being a dogmatic instrument, it offered a doctrine that could be applied to all walks of life. Moreover, contrary to what many believed, Islam was characterized by a continual process of flux and change, providing a context for helpful interpretations of the shariah that in certain countries had let to developments in important areas of social life. One example concerned polygamy, in regard to which Islam had actually improved women's situation, since in the pre-Islamic period they had merely existed as chattels. While it was still possible to have more than one wife, Islam placed

great emphasis on their equal treatment and on the importance of not having several wives if such treatment could not be assured. Islam had also brought other improvements to women's situation; it was important to understand the historical context in each case. That said, the Committee had a duty to determine the extent to which the shariah was invoked as a pretext in Islamic States in order to impede the implementation of human rights.

14. In that context, he wished to highlight several areas of concern. The first was women's rights, with particular regard to the age of marriage and the possibility of free movement, which were crucial aspects affecting whether recognition of the dignity of women as human beings in the fullest sense had been granted in Kuwait. Secondly, the report appeared to make a distinction between "human beings", namely innocent persons who had not been convicted of a crime, and others who, having been found guilty of a crime, lost the capacity to enjoy human rights. He urgently requested the delegation to clarify that situation. Lastly, he also asked for clarification concerning the apparent possibility, referred to by the delegation, that a Kuwaiti's nationality and passport could be withdrawn at the whim of the Ministry of the Interior.

15. Mr. ANDO said he endorsed all the questions which had been put by his colleagues, and would confine himself to two main concerns. The first related to the status of the Covenant within the Kuwaiti legal system. While the report made clear that treaties concluded by the State of Kuwait had the force of law, he would like to know if a law had been enacted, in accordance with article 173 of the Constitution, to establish a constitutional court with the power to annul any law or regulation it considered to be unconstitutional. If so, he would like to know what procedures governed its composition and the appointment of judges and what were the constitutional court's relations with the ordinary courts and with the Supreme Court. Such matters were vitally important, in view of the discrepancies between domestic legislation and certain provisions of the Covenant which had been identified by members of the Committee, and the associated constitutional concerns which had been raised by Mr. Klein. He asked the delegation whether it did not consider the introduction of legislation governing the establishment of a constitutional court to be a matter of paramount importance in the human rights context.

16. He noted that article 4 of the Constitution stated that Kuwait was a hereditary Amirate, or monarchy, while article 6 stated that the system of government was democratic and that sovereignty resided in the people. Did that imply that the people had the power to change the Amirate system of government? Article 174 provided for a procedure for amending the Constitution, but the next article, article 175, qualified that procedure by stipulating that provisions relating to the Amiri system in Kuwait could not be proposed for revision. In its Constitution Japan provided for such amendments, but placed no limitations on their scope, which meant that if a majority of the people decided to change the system of imperial rule, it could, legally at least, do so. He would appreciate clarification on the constitutional relationship between monarchy and democracy.

17. Mr. HENKIN joined in welcoming the Kuwaiti delegation to the Committee and to the world human rights community on the occasion of the presentation of Kuwait's initial report under the Covenant.

18. He would welcome information on how interpretative declarations in respect of certain provisions of the Covenant were implemented in practice. The Committee had been told that the

Amir had sought to implement the provisions of the Covenant in regard to gender equality, but that Parliament had refused to take the necessary measures. Since Parliament was subject to the law of the land, and the Covenant formed part of that law, why was a special act of Parliament necessary to achieve equality for women?

19. He understood that Bedoons were considered not only as stateless persons but also as illegal residents, which seemed a contradiction in terms, and he would be glad to know their exact status. How many Bedoons had been born in Kuwait? Were they entitled to Kuwaiti nationality? Were all Bedoons eligible for naturalization? Were they aware of their rights in that regard? And did the Government encourage them to become Kuwaiti citizens? If their status was in fact illegal, were they subject to prosecution, internment or expulsion? The delegation had stated that naturalization was available for all who deserved it; he would like to know what that implied.

20. It had been stated that the Government paid the school costs of some 20,000 Bedoon children whose fathers were employed by the Government, but he would like to know the situation of children whose fathers were not so employed. If birth, marriage and death certificates were issued "in accordance with the law", what were the criteria for issuing such certificates? How many had been issued in the past year? And what was the law governing certification of marriage? Why were the identity cards issued to Bedoons by the Ministry of the Interior's Committee on Illegal Residents not allowed to be used as identification documents? Article 27 of the Constitution stated that deprivation of nationality was not permitted "except by law". He would like to know whether Kuwaiti-born citizens as well as naturalized citizens could be stripped of their nationality, and on what grounds.

21. The delegation had invited the Committee to press the Government of Iraq to carry out its obligations towards Kuwait, and he wondered whether it had considered a declaration under article 41 of the Covenant as a means of achieving that objective. If the Government of Kuwait were to ratify the Optional Protocol, and to urge the Government of Iraq to do likewise, the Committee would be in a position to help Kuwait to recover what it considered to be its rights under the Covenant.

22. Mr. SCHEININ joined in welcoming Kuwait's ratification of the Covenant, its submission of a report and the presence of a high-ranking delegation.

23. Referring to question 11 of the list of issues, he said that the list of crimes carrying the death penalty, which included crimes relating to external or internal security and to drug trafficking, seemed unduly long in the light of article 6 of the Covenant. Was it intended to abolish the death penalty for some of those crimes, and was it true that the list of crimes subject to that penalty had in fact been extended just prior to Kuwait's ratification of the Covenant, which would seem to run counter to the object of article 6?

24. With reference to question 8, he understood that some progress had been made in regularizing the situation of the Bedoons. However, was it true that Bedoons granted a five-year residence permit were required to renounce all future claims to naturalization? And what would be the situation after the expiry of that period? Was it true that arrangements were currently being planned to enable part of the Bedoon population to be deported to other countries with

which they had no historical, ethnic or personal ties? Was it true that proceedings had recently been launched against certain Bedoons who had not yet regularized their situation? And what was the nature of those proceedings?

25. On the subject of the right of women to vote and to stand for election, he noted that Kuwait had entered a reservation to article 25 stating that women were not entitled to vote, despite the fact that its Constitution referred to democracy, equality and even universal suffrage. It was clear that that electoral law was unconstitutional, and Kuwait should take steps to declare it as such. Since only Kuwaiti men, who accounted for 20 per cent of the population, had the right to vote, and a large majority of those men were below 21 years of age, it followed that the proportion of the population entitled to vote was only 8.7 per cent, or less than one tenth. He therefore found it difficult to accept the argument that the decision not to give women the vote was a consequence of the democratic process.

26. It was clear that the so-called interpretative declarations in respect of articles 2 and 3 of the Covenant amounted to reservations. Kuwait should understand that it would be the duty of the Committee, in considering the initial report, to take a position as to whether or not such declarations were compatible with the Covenant, and hence whether Kuwait should remain a State party to the Covenant without the benefit of those declarations. Had the Government anticipated that situation, and the possible legal consequences for it as a State party?

27. Mr. KRETZMER noted that the Government of Kuwait, in acceding to the Covenant, had drawn a distinction between interpretative declarations and reservations. However, every member of the Committee was convinced that such interpretative declarations were not an acceptable reading of the Covenant, and thus Kuwait should not be surprised if the Committee ignored them. He shared the view, expressed by Ms. Evatt, that given the Committee's general comment on reservations, and the clear requirements of articles 2, 3, 4 and 26 of the Covenant, any reservation in respect of article 25 was not compatible with the object and purpose of the Covenant. That reservation would thus fall, and the State party would be unable to benefit by it.

28. Concerning the death penalty, he would be glad to know the precise legal definition of the crimes for which that penalty could be imposed.

29. Statistics provided by the delegation indicated that the majority of the population were not Kuwaiti citizens, and that while citizens constituted 41 per cent of the population, they constituted only 14 per cent of the workforce. It followed that the economy of Kuwait was very largely dependent on foreign workers, who by definition were non-citizens. He saw no justification for discriminating between citizens and non-citizens where rights guaranteed under the Covenant were concerned.

30. Concerning article 24, statistics showed that only a small proportion of children were covered by the Kuwait school system and that very large numbers of children of school age were excluded. He would appreciate information as to what criteria were used in determining which children were entitled to education and adequate health care, and which were not.

31. He associated himself with the statements made by his colleagues concerning article 25. Despite the explanations given, he was still not clear who was entitled to be regarded as a citizen

under the nationality law. According to information supplied to the Committee, a naturalized Kuwaiti citizen would not be entitled to vote until 30 years after naturalization, which would seem to raise problems of compatibility with articles 25 and 26 of the Covenant.

32. The CHAIRPERSON invited the delegation to respond to the questions raised.

33. Mr. RAZZOOQI (Kuwait) said his delegation did not regard the questions raised as criticism, but rather as a means of helping it to improve the legislation it had created. It was true that the Covenant was part of Kuwait law, but other parts of that law were derived from Islamic jurisprudence and were designed to take into consideration the socio-economic structure of Kuwaiti society. Although generally speaking Kuwait was more liberal than other countries in interpreting Islamic jurisprudence, it would take some time to determine the specific areas in which it did not conform to the provisions of the Covenant; his Government would study the question and present its findings to the Committee in written form at a later stage.

34. He read out an explanation of what was meant by the statement that Islam was the religion of the country, which indicated that the shariah was the principal source of legislation in Kuwait and constituted a guideline for legislators, although it did not prevent them from enacting new provisions drawn from other sources. For example, it was permissible to update the Penal Code provided that the limitations imposed by Islamic jurisprudence were respected. Such amendment would not have been possible if Islamic jurisprudence had not been one among several sources of legal theory in Kuwait; it was possible to take note of other sources dealing with matters addressed by the shariah and thus the legislator was not placed in an awkward position if empirical considerations made it impracticable to follow Islamic jurisprudence. The question required much study in order to determine what corrective action was required so as to apply the provisions of the Covenant fully in practice. The Kuwaiti authorities would debate the matter and then endeavour to supply the Committee with a more scholarly response.

35. No reservations had been entered on article 26. The provisions of the Constitution were in line with it and the only exceptions were certain internal civil or Islamic laws. A way would have to be found of reconciling them with that article in the future.

36. It was necessary to point out that the reservation relating to women's franchise had been offset by laws which promoted the equal treatment of women in other respects. The Amir's decree introducing women's voting rights and the right to stand for election had not been passed by Parliament. All the four cases submitted to the Constitutional Court to appeal against Parliament's decision had been rejected on legal formalities. Nevertheless, the Court would probably examine the merits of one currently pending case. Furthermore, when the Government failed to secure the adoption of legislation on a highly controversial subject, it was sometimes advisable to wait until the next session of Parliament before introducing another bill on the same topic. In his opinion, the Government did not want to refer the question to the Constitutional Court because it wished to avoid a constitutional conflict and political ill will. It was better not to challenge the social structure of the country, but to try to obtain women's enjoyment of that right through persuasion.

37. All members of the Government supported women's political rights and were striving to achieve international standards in that respect. Women were prominent in many sectors in

Kuwait and consideration was even being given to allowing them to participate in defence. They had their own passports and could travel. The two women writers accused of defaming Islam had not been imprisoned: one had been fined and the case against the other had been dismissed.

38. Islamic laws were open to interpretation. For example, abortion and adoption were permitted for humanitarian reasons, and attempts were made to take into account the rights of the women in question. When Iraq had invaded the country, over 200 women had become pregnant as a result of rape. The children of those who had refused abortion on religious grounds had been placed in foster homes or adopted. Women had the right to follow the dictates of their conscience.

39. The CHAIRPERSON requested the delegation to reply to questions 16-23 of the list of issues (CCPR/C/69/L/KWT).

40. Mr. AL-OSAIMI (Kuwait) said that articles 52-54, 56 and 58-61 of the Code of Criminal Procedure were pertinent to question 16. Article 60 stipulated that the police were required to bring an arrested person before a judge within four days. That period could be extended only by an order from the judge, if further investigations proved necessary. Article 75 of the Code further laid down that a person held in pre-trial detention had the right to participate in all preliminary investigative procedures and to be accompanied by a lawyer. Similarly, that person could ask to see a doctor.

41. Mr. AL-BABTAIN (Kuwait), replying to question 17, said that all government departments and bodies made every effort to ensure that prisoners had the means of lodging complaints. Under article 15 of Law No. 25 of 1962, a prison governor could receive any complaint filed by detainees, ascertain whether it was justified and take steps to rectify matters if it was well-founded. He then had to report to the Ministry of the Interior on the action taken in that connection.

42. Staff from the Prosecutor's Office visited prisons regularly. The Procurator-General also visited prisons in pursuance of article 56 of Legislative Decree No. 25 of 1990 relating to the administration of justice. That article specified that the Procurator-General was responsible for supervising conditions in prisons and similar institutions. A department within the Prosecutor's Office also conducted inspections of prisons under the same article, with the aim of implementing Law No. 26. The Department for Prison Detention and Sentencing likewise permitted inspection by a variety of outside bodies, which did not require prior authorization and had direct contact with prisoners.

43. In addition, members of embassies and consulates could visit foreign prisoners or detainees who were their compatriots in pursuance of the provisions of Law No. 26, which regulated detention. One article of that Law gave persons in temporary detention the right to contact consulates or embassies once they had received authorization to do so from the Ministry of the Interior. A committee of the Kuwaiti Bar Association and the delegation of the Kuwaiti Red Crescent likewise conducted prison visits. All complaints were investigated and steps were taken to deal with any problems that had arisen. In most cases, the complaints did not concern inhuman treatment, but were confined to minor infractions of the rules. The authorities were immediately notified of any complaint and then took the appropriate steps.

44. Mr. AL-SALEH (Kuwait), answering question 18, explained that he wished to quote some provisions of the Constitution and the Code of Criminal Procedure in order to demonstrate their conformity with the Covenant. Having read out articles 162, 163 and 166 of the Constitution, he said that article 2 of the Code of Criminal Procedure instituted a two-tier system of criminal courts, where courts of first instance dealt with minor offences and misdemeanours. In accordance with article 165 of the Constitution, court sessions were public, save where otherwise prescribed by the law, and article 176 of the Code of Criminal Procedure stipulated that the president of the court pronounced sentence in public session. Article 34 of the Constitution established presumption of innocence. Article 1 of the Code stated that no penalty could be imposed other than by due process of law. The defendant's right to engage a lawyer was governed by articles 120-171 of the Code. The defendant must be present in person at proceedings and be represented by a lawyer. The right of the opposing party to attend was likewise guaranteed, even if the session was held in camera. A defendant must be informed if a session was deferred. Charges must be read out to the defendant and no evidence could be obtained by coercion. The defendant was entitled to call witnesses, to employ the services of a translator or interpreter and to submit written memoranda in defence of his case. A sentenced person could appeal against a sentence passed in absentia. Similarly, an appeal could be lodged against a decision of a criminal court of first instance and against some judgements of civil courts.

45. If a criminal court passed a death sentence, it automatically had to refer its decision to the Supreme Appeal Court for review. Objections could therefore be raised to any acts of the police, the investigator or the court in connection with the hearing or investigation, and those objections would have to be examined at the appeal stage. The appellant did not suffer prejudice as a result of having submitted an appeal. No sentence was executed until it was final. A defendant held in custody would be released immediately if the court of first instance merely imposed a fine or a suspended sentence. Capital punishment was not carried out until the sentence had been ratified by the Amir. Sentenced persons were held in prison until the sentence was ratified or commuted.

46. If a death sentence was passed on a pregnant woman and the baby was born alive, the sentence would be suspended and the case referred back to the sentencing court in order that the death sentence might be commuted to life imprisonment.

47. Any period spent in pre-trial detention would be deducted from the total prison sentence served. Juvenile justice was governed by Law No. 3 of 1983. Measures which could not be regarded as punitive had been provided for for juveniles and were aimed at rehabilitation and turning the young person into a good citizen.

48. Mr. RAZZOOQI (Kuwait) said in response to question 19 that the State religion was Islam and that almost 99 per cent of the Kuwaiti population were Muslims; a few Kuwaitis were Christians. They all had the same duties and roles in the eyes of the law. He was satisfied that religious tolerance did exist in his country, because there were six Christian churches in Kuwait. Sixty per cent of the population were labourers who had the right to perform their own religious duties. Respect for other religions was enshrined in the Constitution and practised by the Kuwaiti people. There was no intimidation whatsoever.

49. Although Islam forbade a change in religion, there had been one case where a Muslim (a Mr. Kumbar) had converted from Islam to Christianity and then back to Islam, but no legal action had been taken against him. Kuwaiti society was conservative and so few changes in attitudes to religion occurred.

50. Mr. AL-SALEH (Kuwait), answering question 20 of the list of issues relating to freedom of expression, said that the right to express one's opinion was protected by article 36 of the Constitution and by other Kuwaiti legislation. All citizens had the right to express themselves in speech and writing, provided that they did not undermine the dignity of others and their statements were not subversive or immoral. Article 37 of the Constitution enshrined citizens' freedom to publish their opinions in the press, in books or in public speeches.

51. Article 1 of Law No. 3 of 1961 on Printing and Publishing protected the right to produce written materials. Chapter III of the Law listed subjects which could not be published, including material insulting to God or the Amir, material which might damage Kuwait's relations with other States, material detrimental to public morals or the dignity or personal freedom of an individual or material which was an incitement to crime, hatred or dissent in society. Article 28 laid down the penalties for persons who wrote such material and the editors of newspapers which published it.

52. The Government recognized the important role which the media played in society. Individuals were free to obtain information from all national and international media. Chapter II of Law No. 3 governed the publication of newspapers and magazines. All such publications must have an editor-in-chief, who was responsible for their content. The owner and editor-in-chief of a publication must be Kuwaiti citizens, permanently resident in Kuwait, and known to be of good character.

53. Mr. AL-OMAR (Kuwait), answering question 21 of the list of issues, dealing with the role of trade unions, said that political activity had been permitted in his country since the 1930s, and trade unions had operated since the 1950s. He himself had been active in the trade union movement since the 1960s, at local level at school and university, and at international level with ILO. Kuwaiti society provided a remarkable example of stability, thanks to its commitment to the Islamic shariah law, the democratic Constitution and the international instruments to which Kuwait was a party. Citizens were free to criticize the Government's economic, social or political conduct at public meetings. International human rights organizations were welcome to visit the country, ask questions and open their own offices if they wished.

54. Trade union rights were enshrined in article 43 of the Constitution. Article 69 of the Labour Law of 1964 laid down the right to form employers' associations and trade unions. Trade unions were legal entities. The General Labour Congress, which brought together the 38 employers' associations and trade unions, had been formed in 1968. Professional associations had been formed in all areas of economic activity; they were also open to expatriate workers. According to an NGO report he had read, one third of trade union members in Kuwait were non-citizens. He was not aware of any cases where a Kuwaiti citizen or a non-citizen had been excluded from a trade union, except perhaps for reasons such as failure to pay membership dues.

55. The Kuwaiti Parliament would shortly begin discussion of a new draft labour code, which would provide new safeguards for workers and be consistent with Kuwait's obligations under international instruments.

56. Mr. AL-SALEH (Kuwait), answering question 22 on political activity in the absence of political parties, said that article 43 of the Constitution guaranteed citizens the freedom to form associations and unions on a national basis. People could not be forced to join any association. Political parties were not authorized under the Constitution; however, the Constitution did not ban them altogether, so parties might exist in the future. Citizens were still able to express their political opinions freely.

57. Mr. RAZZOOQI (Kuwait), replying to question 23 on the dissemination of information about Kuwait's report and its consideration by the Committee, said that treaties came into force only after their publication in the official gazette (art. 70 of the Constitution). The article also listed the types of treaty which came into force only when they had been enacted by a special law.

58. Laws were published in the official gazette in Arabic within two weeks of their adoption, and entered into force one month after publication, although those periods could be extended or reduced if necessary. They were then deemed to be binding on all citizens, whether or not they had actually familiarized themselves with the text. All organs and authorities were then expected to implement the law in their respective areas of competence. The human rights treaties to which Kuwait had acceded, including the Covenant, had all been subjected to the above procedure. Human rights issues were included in the curricula of law students. Human rights round tables were held at police and military training colleges, and also for the public, in order to increase awareness of human rights issues.

59. Mr. ZAKHIA thanked the Kuwaiti delegation for the information it had provided. However, he wished to point out that mechanisms for the protection of human rights were necessary even in a country with a democratic, elected Parliament. The solution adopted in most countries was to set up a constitutional court to deal with infringements of human rights. Would such a court be permitted under the Kuwaiti Constitution?

60. Law No. 3 on Printing and Publishing forbade the publication of material which attacked the divinity of God or the person of the Amir. That provision seemed a very broad one, and coupling the name of God with that of the Amir in the same clause might give rise to difficulties. Might the law infringe the right to freedom of expression of a non-Muslim, for example? Had the Kuwaiti courts passed any judgements which might shed light on their interpretation of the law?

61. He asked for more information about Kuwait's policy of interpreting the Islamic shariah in the light of modern Arab case law, particularly in respect of the law on polygamy. The use of the shariah appeared to be different for the criminal and the civil law.

62. Mr. KRETZMER said that the State party's report was intended to show how well it had implemented the provisions of the Covenant. Unfortunately, the Kuwaiti report and presentation

had not always succeeded in that task, and he therefore had a number of questions intended to elicit information about the consistency of Kuwaiti legislation with the relevant provisions of the Covenant.

63. In connection with article 9 of the Covenant, he said that the police appeared to have very wide powers of arrest (report, para. 159). What were the legal safeguards against arbitrary arrest and detention? A detainee could be held for up to four days without being charged (para. 161), although the Committee generally considered that the maximum period should be 48 hours. The delegation had stated that a person could be detained beyond that time only on the instructions of a judge, whereas the report stated that the instruction was issued by the "investigating officer", who was presumably not a judge. Had the law perhaps changed since the submission of the report?

64. The report gave no information about pre-trial detention in Kuwait. Were accused persons generally released on bail pending trial? On what grounds could they be detained until their trial, and who made the decision?

65. Turning to article 19 of the Covenant, he asked whether Kuwait could justify the restrictions on freedom of expression described in the report (e.g. in para. 240) in the light of its obligations under article 19.

66. The delegation had quoted article 43 of the Kuwaiti Constitution on the freedom to form associations. However, political parties were not permitted, although they were generally considered to be an essential part of the political process. The delegation had said that political parties were not banned by the Constitution and might be set up at some point in the future, but he could not understand why they were not allowed already. He asked for more information in relation to question 22 of the list of issues. What means of political organization existed, since political parties were not allowed? It was not a question of expression of individual opinions, but of the formation of political groupings for the pursuit of political aims.

The meeting rose at 6 p.m.